

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

THEODORE C. SWARTZ,

Plaintiff,

KPMG, LLP, PRESIDIO GROWTH, LLC,
PRESIDIO ADVISORY SERVICES, INC.,
HAYES STREET MANAGEMENT, INC.,
NORWOOD HOLDINGS, INC, DEUTSCHE
BANK AG, DEUTSCHE BANK SECURITIES,
INC., SIDLEY AUSTIN BROWN & WOOD,
LLP, DALE R. BAUMANN, JOHN M.
LARSON, ROBERT A. PFAFF, DAVID AMIR
MAKOV, STEVEN BUSS, and R. J. RUBLE,
and their respective marital communities, if any.

Defendants.

Case No. C03-1252 P

DECLARATION OF
DUNCAN C. TURNER IN
SUPPORT OF MOTION FOR
LEAVE TO AMEND
COMPLAINT

Duncan C. Turner respectfully submits the following Declaration in Support of
Motion for Leave to Amend Complaint.

1. I am an attorney representing Plaintiff T.C. Swartz in this action. I have
personal knowledge of the matters stated herein and am competent to testify as to the
same.

2. Attached as Exhibit 1 hereto is a true and correct copy of the report prepared
by the Permanent Subcommittee on Investigations of the Committee on Governmental
Affairs of the U.S. Senate titled "U.S. Tax Shelter Industry: The Role of Accountants,

BADGLEY ~ MULLINS

LAW GROUP

5100 Washington Mutual Tower
1201 Third Avenue
Seattle, Washington 98101
Telephone: (206) 621-6566
Fax: (206) 621-9686

DECLARATION OF TURNER IN SUPPORT OF - 1
MOTION FOR LEAVE TO AMEND COMPLAINT
Case No. C03-1252 P

1 Lawyers, and Financial Professionals; Four KPMG Case Studies: FLIP , OPIS, BLIPS,
2 and SC2" ("the Senate Report"). This report was released in conjunction with the
3 Permanent Subcommittee on Investigations hearings held on November 18 and 20th, 2003.

4 3. This document substantially supports many of the factual allegations made in
5 the First Amended Complaint and the arguments made in the Motion for Leave to Amend
6 Complaint.

7 4. Attached as Exhibit 2 hereto is a true and correct copy of Exhibit 5 to the
8 Senate Report consisting of emails dated April 14, 1999 from KPMG.

9 5. Attached as Exhibit 3 hereto is a true and correct copy of Exhibit 64 to the
10 Senate Report consisting of emails from KPMG dated May 4th, 5th and 10th, 1999.

11 6. Attached as Exhibit 4 hereto is a true and correct copy of Exhibit 13 to the
12 Senate Report, an email dated August 4, 1999 from KPMG.

13 7. Attached as Exhibit 5 hereto is a true and correct copy of Exhibit 17 to the
14 Senate Report consisting of emails dated August 4th and 5th, 1999.

15 8. Attached as Exhibit 6 hereto is a true and correct copy of Exhibit 69 to the
16 Senate Report, correspondence from Presidio to John Rolfes of Deutsche Bank dated April
17 20, 1999.

18 9. Attached as Exhibit 7 hereto is a true and correct copy of Exhibit 70 to the
19 Senate Report, a Deutsche Bank document titled "New Product Committee Overview
20 Memo: BLIPS Transaction."

21 10. Attached as Exhibit 8 hereto is a true and correct copy of Exhibit 67 to the
22 Senate Report consisting of an emails from Deutsche Bank dated July 13th and 26th, 1999
23 and Deutsche Bank documents believed to be PowerPoint slide pages.

24 11. Attached as Exhibit 9 hereto is a true and correct copy of Exhibit 102 to the
25 Senate Report, a memorandum from Deutsche Bank dated July 29, 1999.

26
DECLARATION OF TURNER IN SUPPORT OF - 2
MOTION FOR LEAVE TO AMEND COMPLAINT
Case No. C03-1252 P

BADGLEY ~ MULLINS

LAW GROUP

5100 Washington Mutual Tower
1201 Third Avenue
Seattle, Washington 98101
Telephone: (206) 621-6566
Fax: (206) 621-9686

1 12. Attached as Exhibit 10 hereto is a true and correct copy of Exhibit 29 to the
2 Senate Report, an email from Presidio dated September 11, 1999.

3 13. Attached as Exhibit 11 hereto is a true and correct copy of Exhibit 126 to the
4 Senate Report consisting of a Presidio memorandum dated April 18, 2002, with an
5 attached document titled "Year 2000 Strategic Plan."

6 14. Attached as Exhibit 12 hereto is a true and correct copy of Exhibit 33 to the
7 Senate Report, a KPMG memorandum dated June 17, 1998.

8 15. Attached as Exhibit 13 hereto is a true and correct copy of KPMG's December
9 13, 1999 opinion letter regarding tax consequences for Gascoyne Ventures, LLC's
10 investment transactions.

11 16. Attached as Exhibit 14 hereto is a true and correct copy of Exhibit 65 to the
12 Senate Report consisting of KPMG emails from May 1999.

13 17. Attached as Exhibit 15 hereto is a true and correct copy Exhibit 34 to the
14 Senate Report, an email from KPMG dated July 22, 1999.

15 18. I swear under penalty of perjury that the foregoing is correct to the best of my
16 knowledge and belief.

17 Respectfully submitted this 9th day of March, 2004.

18
19 s/ Duncan C. Turner

20 Duncan C. Turner, WSBA 20957
21
22
23
24
25
26